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May 7, 2004

VIA HAND DELIVERY

Hon. Deborah Taylor Tate, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

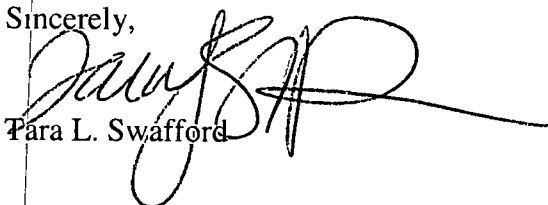
**Re: Tennessee Coalition of Rural Incumbent Telephone Companies and
Cooperatives Request for Suspension of Wireline to Wireless Number
Portability Obligations Pursuant to Section 251(f)(2) of the
Communications Act of 1934, as Amended; Docket No. 03-00633**

Dear Chairman Tate:

We enclose for your review 13 copies of the Coalition's Response to Recent Filings by
Verizon, Nextel, and the Consumer Advocate Division in Opposition to Suspension Request.

If you have any questions regarding this information, please let me know.

Sincerely,


Tara L. Swafford

TLS:bb

cc: R. Dale Grimes, Esq.
Timothy C. Phillips, Esq.
Melvin J. Malone, Esq.
Laura S. Gallagher, Esq

First, the Coalition disagrees that its members have been on notice of its LNP obligations since 1996. If that were the case, then the FCC would not have needed to issue the orders that it has issued in the past year. The issue of wireline to wireless LNP has never been clarified by the FCC until the recent orders referred to in the Coalition's Amended Petition. Only on November 10, 2003, did the FCC make clear its intention to require wireline to wireless portability, and it has done so without any instruction as to the means or method for the implementation of this requirement regarding rating and routing issues. Indeed, the entire question of whether the FCC even had statutory authority to order wireline to wireless LNP is currently pending before the Federal Court of Appeals.

Second, the statements by Verizon, Nextel and the Consumer Advocate Division that the Coalition has failed to present a factual basis for its request are wrong. In the Coalition's Amended Petition for suspension, approximately four pages of single-spaced information is submitted to the TRA detailing on a petitioner-by-petitioner basis the costs and other obligations involved in implementing LNP requirements. This information is not merely "boilerplate" as alleged by Nextel but is the specific information requested by the TRA to prove the basis for the Coalition's request for suspension. Furthermore, this proceeding is just at the pleadings stage. If additional information is required, it can be produced according to a procedural schedule in preparation for a hearing on this petition.

Third, as discussed in the Coalition's Amended Petition for Suspension, 47 U.S.C. § 251(f)(2) empowers the TRA to grant the interim suspension and extended suspension requested in this proceeding. Verizon cannot nullify this statute by its arguments of comity. Were comity the issue, then Congress would not have established § 251(f)(2) as a method for suspending interconnection obligations. Attached are orders from several states doing just that with regard to LNP obligations. (See attached orders from Alabama, Idaho, Iowa, Nebraska, New Mexico, Oregon, Utah, and Washington.)

The Coalition looks forward to addressing these matters in greater detail as this matter proceeds. In the meantime, the Coalition requests that the TRA grant its previously submitted motion for an interim suspension pending this proceeding and set a procedural schedule.

Respectfully submitted,
The Tennessee Coalition of
Incumbent Rural Telephone
Companies and Cooperatives

By: 

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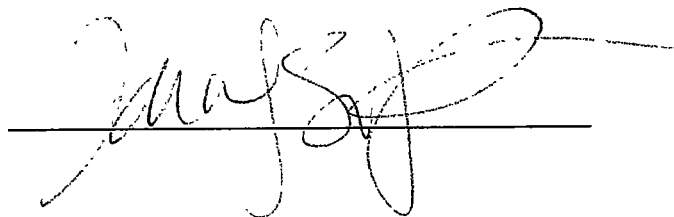
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via hand delivery or facsimile on May 7th, 2004, upon:

Richard Collier, Esq.
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Alabama Public Service Commission

Orders

**CENTURYTEL OF ALABAMA, LLC AND
ADDITIONAL RURAL INCUMBENT
LOCAL EXCHANGE CARRIERS
OPERATING IN ALABAMA,**

DOCKET 29138

Petitioners

**NOTICE OF SUSPENSION OF THE
WIRELIN TO WIRELESS LOCAL NUMBER PORTABILITY
REQUIREMENTS FOR SPECIFIED RURAL INCUMBENT
LOCAL EXCHANGE CARRIERS**

BY THE COMMISSION:

I. The Petition of CenturyTel of Alabama, LLC for Suspension/Modification

On November 20, 2003, CenturyTel of Alabama, LLC ("CenturyTel") submitted to the Commission an Emergency Petition for a Limited Continuance and Modification of the Requirement to Provide Wireline to Wireless Number Portability (the "CenturyTel Petition"). CenturyTel's Petition relates to the Federal Communications Commission's ("FCC's") November 10, 2003 mandate that incumbent local exchange carriers ("ILECs") must provide wireline to wireless local number portability ("LNP") within the top 100 metropolitan statistical areas ("MSAs") in the United States by November 24, 2003, and outside the top 100 MSAs by May 24, 2004.^[1]

In its Petition, CenturyTel seeks a six month delay to May 24, 2004 for the implementation of wireline to wireless number portability in its exchanges in Alabama that are located within the top 100 MSAs.^[2] CenturyTel asserts that it will be fully compliant with the FCC's wireline to wireless number portability requirements in all its exchanges by May 24, 2004. CenturyTel maintains, however, that it is impractical to require CenturyTel, or any other Rural ILEC, to provide wireline to wireless number portability in Alabama by the November 24, 2003 deadline established by the FCC.

During the six month suspension period requested, CenturyTel asserts that it will be able to fully address numerous costs and technical issues concerning wireline to wireless number portability so as to begin to provide the service throughout its Alabama territory by May 24, 2004. Without the requested extension, CenturyTel asserts that it will be unable to engage in the porting tests with wireless carriers.

which are necessary to ensure that wireline to wireless LNP meets customer expectations.

In further support of its Petition, CenturyTel maintains that the FCC requirement to provide wireline to wireless number portability by November 24, 2003, in its exchanges located within the Mobile and Birmingham MSAs would place an undue economic burden on CenturyTel due to already limited resources. CenturyTel asserts that the suspension sought would be in the public interest because the additional time would allow CenturyTel an opportunity to resolve wireline to wireless LNP technical and cost issues and allow for clarification as to what type of number portability requests CenturyTel must respond to.

CenturyTel maintains that it must only respond to LNP requests from wireless carriers who demonstrate that the ported numbers they request will be used only within CenturyTel's rate center from which they are ported. CenturyTel asserts that it should only be required to allow end users to retain their same telephone number when changing service providers ("service provider portability") as opposed to allowing end users to retain their same telephone number when moving from one location to another ("geographic location portability"). CenturyTel thus seeks the creation of a "safe harbor" provision requiring CenturyTel to respond only to those LNP requests made by other telecommunications carriers where such carriers demonstrate that the ported numbers will be used in the same rate centers to which the numbers are currently assigned.

CenturyTel asserts that its Petition is filed pursuant to §251(f)(2) of the Communications Act of 1934, as amended (the "Act") [3] and Alabama Public Service Commission ("APSC") Telephone Rule T-29(B)(1). As noted by CenturyTel, the aforementioned provisions allow carriers with fewer than two percent of the nation's subscriber lines installed in the aggregate nationwide to petition state Commissions for a suspension or modification of the application of a requirement or requirements of §251(b) and/or (c) to telephone exchange service facilities specified in such petitions. CenturyTel asserts that its total access lines nationally are less than two percent of the nation's total number of subscriber lines thereby entitling CenturyTel to seek suspension and/or modification of its obligations and duties under §251(b) and/or (c) of the Act for its Alabama operations.

II. The Petition of Additional Alabama Rural Incumbent Local Exchange Carriers for Suspension/Modification

By filing of November 21, 2003, the Rural ILECs listed in Appendix A hereto (the "Rural ILECs") also seek a limited modification and suspension of the wireline to wireless local number

portability obligations established by the FCC. Like CenturyTel, the Rural ILECs submit their request pursuant to §251(f)(2) of the Act. The Rural ILECs assert that in their individual capacities, each carrier serves less than two percent of the nation's subscriber lines installed in the aggregate nationwide.

The Rural ILECs represent that the company-specific information provided with their collective Petition demonstrates that each of the Rural ILECs will experience varying levels of cost, and will require differing amounts of time to equip their respective switches for porting capability upon the receipt of legitimate porting requests from CMRS providers. In addition to switch modification costs and software upgrade expenses, the Rural ILECs maintain that they will incur recurring expenses with each query or "dip" of the LNP database, as well as additional operating expenses directly related to the implementation of LNP, including, but not limited to, translation support efforts, back office implications concerning billing and plant records, LNP dip contracts and various expenses resulting from the receipt and handling of default routed traffic. The Rural ILECs further assert that there remain numerous unresolved technical matters associated with the implementation of the FCC's wireline to wireless LNP mandate such as billing and porting issues.

The Rural ILECs argue that all of the aforementioned factors combine to render the provision of local number portability unduly economically burdensome and technically infeasible at this time. In addition, the Rural ILECs note that unresolved matters related to the issue of whether ported numbers must remain within the rate center wherein they are currently assigned make immediate implementation of the FCC's wireline to wireless LNP mandate impractical. The Rural ILECs particularly note that the FCC has deferred several key issues regarding wireless to wireline porting where a mismatch exists between a wireless numbers' assigned rate center and the rate center associated with a new service request.

The Rural ILECs maintain that the cost of implementing wireline to wireless number portability as reflected in their Petition, demonstrates that a grant of their suspension request is necessary to avoid significant adverse impact on the users of telecommunications services generally. The Rural ILECs emphasize that each petitioning carrier has a limited customer base over which to spread their costs which, as demonstrated, are significant.

The Rural ILECs further note that unlike the Regional Bell Operating Companies ("RBOCs"), the Rural ILECs have not been under an imminent requirement to implement local number portability generally. The Rural ILECs therefore point out that the issues involved with Rural ILEC implementation

of wireline to wireless LNP are much more significant than they are for the RBOCs who must simply extend current LNP capabilities to wireless carriers. The Rural ILECs accordingly assert that the end user charge necessary to recover the cost of LNP for their operations will be higher than that previously experienced by, and imposed on behalf of, the RBOCs. The Rural ILECs contend that this problem will only be compounded by the fact that the Rural ILECs have fewer customers per switch and correspondingly higher costs per end user.

The Rural ILECs further assert that a grant of the suspension requested would avoid the imposition of a requirement that is technically infeasible. In particular, the Rural ILECs note that a number of billing modifications will have to be made to accommodate wireline to wireless LNP. The Rural ILECs assert that it is unclear how long it will take to accomplish the necessary modifications.

The Rural ILECs further assert that their request is consistent with the public interest, convenience and necessity. They maintain that by granting the temporary suspension requested, the Commission will avoid the potential waste of resources while the further clarifications necessary to effectively and efficiently implement wireline to wireless number portability are undertaken.

The Rural ILECs note that while the Commission has 180 days to finally act on their Petition, the Commission may in the interim suspend the enforcement of the FCC's wireline to wireless requirement

[4]
with respect to the Rural ILECs. The Rural ILECs contend that such a suspension would allow the Commission and the Rural ILECs to engage in a rational analysis of the implementation issues cited herein while avoiding the need for the Petitioners to expend valuable resources to address portions of requests which may never be implemented. The Rural ILECs note that the FCC has itself cited the statutory suspension provisions of §251(f)(2) as an avenue to allow eligible ILECs "sufficient time to obtain an appropriate §251(f)(2) relief as provided by the statute."
[5]

III. Findings and Conclusions of the Commission

We have reviewed the Petitions of CenturyTel and the Rural ILECs in light of the statutory criteria established by §251(f)(2) of the Act and find that each of the petitioning carriers is indeed eligible to seek the relief set forth by §251(f)(2). We further find that an immediate suspension of the wireline to wireless LNP requirements imposed by the FCC with respect to the Rural ILECs identified herein would be in the best interest of the consumers of Alabama.

In particular, we find that the rather substantial cost and technical implementation issues documented by the petitioning parties in their respective pleadings demonstrate that the suspension

granted herein is necessary to avoid an undue economic impact to the customers of the petitioning parties

[6]
as well as an undue economic burden to the petitioning carriers themselves. The Joint Petitioners have also demonstrated that there are rather substantial technical issues associated with the billing and routing of wireline to wireless local number portability which must be investigated further in order to avoid

[7]
immediate and potentially irreparable economic consequences to the petitioning parties.

While we do not herein render a determination regarding the issue of whether telephone numbers ported by ILECs to wireless carriers need only be ported in scenarios where the wireless carriers provide adequate assurances that the ported number will remain associated with the wire center to which it is currently assigned, we acknowledge that there are substantial issues related to "service provider porting" as opposed to "geographic location porting" which must be evaluated further. We find that an immediate suspension of the wireline to wireless LNP requirements discussed herein will allow for more sufficient investigation and resolution of those issues.

In light of the serious implications that could result from a failure on our part to immediately suspend the wireline to wireless LNP requirements imposed by the FCC, we find the course of action set

[8]
out herein to be mandated by the public interest, convenience and necessity. The suspension granted with respect to the carriers specified herein will remain in effect until further notice.

IT IS SO RULED BY THE COMMISSION.

DONE at Montgomery, Alabama, this 25th day of November, 2003.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

George C. Wallace, Jr., Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary

APPENDIX A

Blountsville Telephone Company
Brindlee Mountain Telephone Company
Castleberry Telephone Company, Inc.*
Farmers Telephone Cooperative, Inc.
Frontier Communications of Alabama
Frontier Communications of Lamar County
Frontier Communications of the South, Inc.
Graceba Total Communications, Inc.
Gulf Telephone Company
Hopper Telecommunications Co., Inc.
Millry Telephone Company, Inc.*
Mon-Cre Telephone Cooperative, Inc.
National Telephone of Alabama, Inc.
New Hope Telephone Cooperative, Inc.
Otelco Telephone, LLC (formerly Oneonta Telephone Company, Inc.)
Ragland Telephone Company, Inc.
Roanoke Telephone Company, Inc.

*By filing of November 25, 2003, Castleberry Telephone Company, Inc. and Millry Telephone Company, Inc. were added as Rural ILECs petitioning for Suspension and/or Modification of the FCC Wireline to Wireless LNP requirements.

Press the Back Arrow to Return to the Search

Return to PSC Home - <http://www.psc.state.al.us/index.htm>

[1]

Telephone Number Portability, CC Docket No 95-116, *Memorandum, Opinion and Order and Further Notice of Proposed Rulemaking*, FCC 03-284, rel Nov 10, 2003 ("Intermodal LNP Order")

[2]

CenturyTel Alabama asserts that Birmingham and Mobile are in the top 100 MSAs and involve the CenturyTel exchanges of Bayou La Batre, Berry, Dauphin Island, Double Springs, Fall River, Grand Bay, Heflin, Herlin, Irvington, Jemison, Lincoln, Pell City, Rockford, Thorsby, Trussville, Winfield, and Woodland which total approximately 55,000 lines.

[3]

Codified at 47 U.S.C. §151 et seq. Cites to a section of the Act are accordingly cited to 47 U.S.C.

[4]

47 U.S.C. §251(f)(2)

[5]

Number Portability Reconsideration 12 F.C.C.R. at 7302-03

[6]

47 U.S.C. §251(f)(2)(A)(i) and (ii)

[7]

47 U.S.C. §251(f)(2)(A)(ii) and (iii)

[8]

47 U.S.C. §251(f)(2)(B)

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE PETITION OF
IDAHO TELEPHONE ASSOCIATION FOR
SUSPENSION OF NUMBER PORTABILITY
REQUIREMENTS.**

CASE NO. GNR-T-04-1

ORDER NO. 29452

On February 5, 2004, the Idaho Telephone Association (ITA) filed a Petition on behalf of sixteen of its members requesting a six-month suspension of the requirement that the companies provide local number portability (LNP) from wireline-to-wireless carriers.¹ In an order issued November 10, 2003, the Federal Communications Commission requires that incumbent local exchange carriers in rural areas implement LNP no later than May 24, 2004. Local exchange carriers with fewer than 2% of the nation's subscriber lines, however, may petition a state commission for modification or suspension of the portability requirements. ITA's petition states that the member companies are pursuing an economical and technically feasible way to provide LNP, but that a system upgrade is required. Specifically, the companies plan to provide number portability through shared equipment and services provided by Syringa Networks, LLC, but that Syringa needs to convert its switch to a tandem switch. The petition states that the conversion is underway but that it cannot be completed prior to the May 24, 2004 deadline.

On February 20, 2004, the Commission issued a Notice of Petition and Notice of Modified Procedure to process ITA's petition, which established a written comment period. Written comments were filed by the Commission Staff and WWC Holding Company, Inc., doing business in Idaho as Cellular One, which is commonly referred to as Western Wireless. In its comments, the Staff generally supports ITA's petition for a six-month suspension. Staff noted that the plan to have a third party enable the companies to provide LNP is unique, and Staff expressed concern that the number portability provided by Syringa be the same as if each ITA

¹ The 16 companies are Albion Telephone Company, Cambridge Telephone Company, Custer Telephone Cooperative, Inc., Farmers Mutual Telephone Company, Filer Mutual Telephone Company, Midvale Telephone Company, Mud Lake Telephone Cooperative Association, Project Mutual Telephone Cooperative Association, Direct Communications-Rockland Rural Telephone Company, Silver Star Telephone Company, Columbine Telephone Company, Inc., Oregon-Idaho Utilities, Rural Network Services, Inc., CTC Telecom, Inc., Fretel Communications, Inc., and Fremont Telecom.

member provided LNP itself. Staff recommended ITA submit a written update to the Commission no later than August 24, 2004, regarding the progress to implement number portability for its member companies.

In its comments, Western Wireless "commends ITA members for considering an innovative approach to cost effectively implementing LNP." Western Wireless nonetheless expressed concern about the delay in implementing LNP by the ITA member companies, noting that the FCC has concluded that suspension is only appropriate under unique and compelling circumstances. Western Wireless conditionally supports approval of ITA's petition, recommending the Commission condition approval on specific requirements, including that the ITA members file monthly updates on the progress toward implementing wireline-to-wireless LNP, that ITA members agree to implement LNP consistent with North American Numbering Council recommendations and all applicable rules, and that the ITA members establish porting processes and procedures no later than August 30, 2004 and file the processes and procedures with the Commission.

DISCUSSION

Section 251(f)(2) of the 1996 Telecommunications Act allows a local exchange carrier with fewer than 2% of the nation's subscriber lines to petition a state commission for suspension of the LNP requirements. The section provides that the state commission "shall grant such petition to the extent that, and for such duration as, the state commission determines that such suspension or modification (A) is necessary (i) to avoid a significant adverse economic impact on users of telecommunication service generally; (ii) to avoid imposing a requirement that is unduly economically burdensome; or (iii) to avoid imposing a requirement that is technically infeasible; and (B) is consistent with the public interest, convenience, and necessity." 47 U.S.C. § 251(f)(2). ITA states in its application that the costs for the individual member companies to upgrade their switches to accommodate LNP range from \$30,000 to approximately \$147,000 for hardware and software upgrades. In addition, each company would be obligated to pay approximately \$2,500 per month for continuing maintenance. If LNP is provided through Syringa's network, the ITA application states that the ITA members will save on initial upgrade costs plus the cost of ongoing maintenance in the amount of \$2,500 per company per month. The Petition also asserts that it is not technically feasible for the companies to provide LNP by the May 24, 2004 deadline. According to the Petition, the switch conversion for Syringa is

already underway, but it cannot be completed by the May 24, 2004, implementation date. In the comments filed by Staff and Western Wireless, neither party disputed the assertions made by ITA on the economic cost and technical feasibility of implementing LNP by May 24, 2004.

On the record presented, the Commission finds that it is appropriate to approve ITA's Petition to suspend the LNP requirement for six months, to no later than November 24, 2004. The costs incurred by each individual company to implement LNP could have a significant adverse economic impact on their customers, and the individual costs of upgrading facilities to provide LNP could be unduly economically burdensome. In addition, the record is undisputed that it is not technically feasible for the companies to implement the LNP by the May 24, 2004, deadline. Under these circumstances, the Commission finds that granting the Petition is consistent with the public interest, convenience, and necessity.

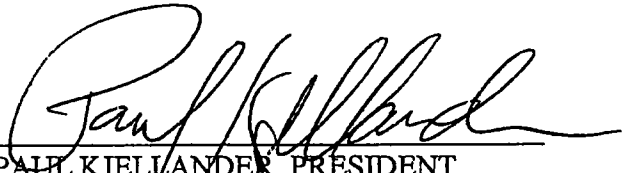
To ensure deployment of LNP as smoothly and efficiently as possible, however, the Commission also finds that its approval of the suspension should be conditioned, and we accept some of the recommendations made by Staff and Western Wireless. Specifically, the Commission requires ITA, on behalf of the sixteen individual companies, to provide two written reports to the Commission by July 23, 2004 and by September 24, 2004, apprising the Commission and interested parties of the progress the companies are making to implement LNP. In addition, the individual companies should establish porting processes and procedures no later than August 30, 2004, and file the processes and procedures with the Commission. Finally, the ITA members must implement wireline-to-wireless LNP consistent with North American Numbering Council recommendations, and all applicable rules.

ORDER

IT IS HEREBY ORDERED that the Petition of ITA on behalf of sixteen local exchange carriers to suspend their requirement to implement local number portability for six months, from May 24, 2004, is approved. ITA is required to file written reports with the Commission on July 23 and September 24, 2004, apprising the Commission and interested parties of the status of implementing LNP. The ITA member companies must file their porting procedures with the Commission by August 30, 2004, and implement LNP consistent with North American Numbering Council recommendations, and all applicable rules.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. GNR-T-04-1 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case No. GNR-T-04-1. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

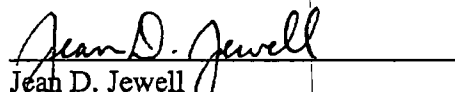
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 26th day of March 2004.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

b1s/O GNRT0401_ws2

ORDER NO. 29452

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:

RURAL IOWA INDEPENDENT
TELEPHONE ASSOCIATION AND IOWA
TELECOMMUNICATIONS
ASSOCIATION; ALPINE
COMMUNICATIONS, L.C., ET AL.; AND
COON VALLEY COOPERATIVE
TELEPHONE ASSOCIATION, INC.,
ET AL.

DOCKET NOS. SPU-04-3
SPU-04-5
SPU-04-6

**ORDER CONSOLIDATING DOCKETS, ESTABLISHING PROCEDURAL
SCHEDULE, GRANTING STAY, AND GRANTING INTERVENTIONS**

(Issued April 23, 2004)

On February 18, 2004, the Rural Iowa Independent Telephone Association (RIITA) and Iowa Telecommunications Association (ITA) filed with the Utilities Board (Board) a "Joint Petition for Suspension of Intermodal Number Portability Requirements for Iowa Two Percent Carriers," pursuant to 47 U.S.C. § 251(f)(2) and Iowa Code § 476.1 (2003), requesting that the Board suspend or modify the federal requirements relating to intermodal number portability (IMNP) for all Iowa local exchange carriers (LECs) serving fewer than 2 percent of the nation's subscriber lines. Generally speaking, "intermodal number portability" is the ability to port telephone numbers between wireline and wireless telecommunications service providers. The petition has been identified as Docket No. SPU-04-3.

On March 9, 2004, Alpine Communications, L.C., and 15 other LECs (collectively referred to as "Alpine Companies") filed a joint "Petition for Suspension of Intermodal Number Portability Requirements" pursuant to 47 U.S.C. § 251(f)(2) and Iowa Code § 476.1 (2003), requesting that the Board suspend or modify the federal requirements relating to IMNP with respect to the Alpine Companies. In support of their petition, the Alpine Companies state that they are rural telephone companies in Iowa that serve fewer than 2 percent of the nation's subscriber lines. The petition has been identified as Docket No. SPU-04-5.

Also on March 9, 2004, Coon Valley Cooperative Telephone Association, Inc., and nine additional LECs (collectively referred to as the Coon Valley Companies) filed a joint "Petition for Suspension of Intermodal Number Portability Requirements" pursuant to 47 U.S.C. § 251(f)(2) and Iowa Code § 476.1 (2003), requesting that the Board suspend or modify the federal requirements relating to IMNP with respect to the Coon Valley Companies. In support of their petition, the Coon Valley Companies state that they are rural telephone companies in Iowa with central office switches manufactured by MITEL, which will not support maintenance for local number portability (LNP) after December 31, 2007. In addition, the Coon Valley Companies state that they serve fewer than 2 percent of the nation's subscriber lines. The petition has been identified as Docket No. SPU-04-6.

On March 4, 2004, the Board issued an order in Docket No. SPU-04-3, which docketed RIITA's and ITA's joint petition for investigation, and directed RIITA and ITA

to serve a copy of their joint petition and a copy of the Board's March 4, 2004, order on any company that had submitted a bona fide request to any of their members for LNP. The Board's March 4, 2004, order also requested that RIITA and ITA file a certificate of service with the Board when service was completed. In addition, the Board requested that RIITA and ITA amend their joint petition to identify the LECs that were seeking a suspension or modification of the IMNP requirements.

On April 9, 2004, RIITA and ITA filed an amendment to their joint petition which identified the participating LECs and provided a certificate of service as requested by the Board's March 4, 2004, order. The Board has reviewed the amendment and finds that RIITA and ITA represent all but two of the Alpine Companies and Coon Valley Companies. In addition, the Board finds that the joint petition filed by RIITA and ITA on February 18, 2004, is substantially similar to the petitions filed by the Allied Companies and the Coon Valley Companies on March 9, 2004. Therefore, the Board will consolidate the petitions and refer to RIITA, ITA, Alpine Companies, and Coon Valley Companies collectively as "Petitioners."

On March 29, 2004, NPCR, Inc., d/b/a Nextel Partners (Nextel), filed with the Board a petition to intervene in Docket Nos. SPU-04-3, SPU-04-5, and SPU-04-6. No objections to the petition to intervene have been filed.

In support of its petition to intervene, Nextel states that it is a wireless telecommunications carrier licensed to provide commercial mobile cellular service (CMRS) in Iowa and seeks to compete with LECs. Nextel also states that it

competes with LECs in part by issuing requests to LECs to provide LNP in accordance with the FCC's rules and that suspension or modification of the FCC's LNP rules would insulate LECs from this area of competition and make it difficult for Nextel to expand into new Iowa markets. As such, Nextel states that it has a direct interest in the Petitioners' request and that Nextel's interests are not likely to be adequately represented by other parties.

On March 30, 2004, WWC License, LLC, Verizon Wireless, and U.S. Cellular Corporation, jointly appearing as the Wireless Coalition for Intermodal Portability (Wireless Coalition), filed with the Board a petition to intervene in Docket Nos. SPU-04-3, SPU-04-5, and SPU-04-6. No objections to the petition to intervene have been filed.

In support of its petition to intervene, the Wireless Coalition states that it consists of wireless service providers that collectively provide service throughout Iowa with one or more of its carriers providing CMRS to customers of each member of RIITA and ITA. Wireless Coalition also states that the subject matter of this proceeding specifically impacts the rights of its carriers to port telephone numbers with ITA member carriers and that its interests are not likely to be adequately represented by other parties.

On April 8, 2004, Sprint Corporation, on behalf of its wireless division, Sprint Spectrum, L.P., d/b/a Sprint PCS (Sprint), filed with the Board a petition to intervene

in Docket Nos. SPU-04-3, SPU-04-5, and SPU-04-6. No objections to the petition to intervene have been filed.

In support of its petition to intervene, Sprint states that it is a wireless provider authorized to do business in Iowa. Sprint also states that its rights and interests may be substantially affected by the Board's decisions in this proceeding and its unique interests are not likely to be adequately represented by other parties.

The petitions to intervene will be granted pursuant to 199 IAC 7.2(7)"d." As wireless service providers in Iowa, Nextel, the Wireless Coalition, and Sprint have demonstrated unique interests in these proceedings that should be represented. These intervenors shall be identified collectively as the Objectors.

Section 251(f)(2) of the 1996 Act provides that local exchange carriers with fewer than 2 percent of the nation's subscriber lines may petition a state commission for suspension or modification of the requirements of § 251(b) or (c). In this proceeding, Petitioners seek suspension of the FCC's requirement that they offer IMNP by May 24, 2004.¹ Section 251(f)(2) also states that:

The state commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

47 U.S.C. § 251(f)(2). The Board's receipt of the certificate of service from RIITA and ITA on April 9, 2004, completes the joint petition as of that date. Therefore, the

¹ In re: Telephone Number Portability, CC Docket No. 95-116, "Order," January 16, 2004.

deadline for Board action in this docket is October 6, 2004, and the Board will establish a procedural schedule that will enable it to act on the petition in a timely manner.

While the Board will consider the Petitioners' requests as a combined petition, the Board anticipates that in the end it will have to consider each company's individual circumstances to determine whether to grant a suspension or modification. It should be possible to develop general standards that can be applied to each company, but it appears consideration of company-specific facts and circumstances may be required.² To that end, during this proceeding, the Board requests that each Petitioner provide certain specific company information, including, but not limited to, number of customers, expected cost of IMNP implementation, and expected cost per customer. The Board also requests that this information be presented in a uniform format and that cost information be presented in a reasonably detailed and specific manner.

Petitioners also request a temporary suspension of enforcement of the IMNP requirements while this matter is pending before the Board. Both Nextel and the Wireless Coalition object to the Petitioners' request for suspension. The Wireless Coalition assert that the Petitioners fail to present sufficient grounds for the Board to grant an interim stay of the IMNP requirements and that the public interest in

² If any party disagrees with the Board's analysis in this respect, and in particular if they disagree with the expectation that a company-specific analysis is required, the party should make an appropriate filing within seven days of the date of this order describing what the party believes to be the appropriate scope of this proceeding and citing any available authority for the party's position.

competition weighs heavily against a stay. Nextel asserts that the Petitioners fail to consider a recent decision by the U.S. Court of Appeals for the D.C. Circuit that denied an emergency motion for stay of the FCC's intermodal LNP requirements.³ Nextel states that as in the U.S. Telecom case, the Petitioners fail to demonstrate that (1) they are unlikely to succeed on the merits, (2) they will be irreparably harmed if a stay is not granted, (3) customers will be harmed if a stay is not granted, and (4) the public interest will be harmed if a stay is not granted.

Pursuant to § 251(f)(2) of the Act, the Board has been given the authority to suspend the enforcement of these requirements for the petitioners while the Board considers the petition. With respect to the U.S. Telecom Ass'n case cited by Nextel, it is unclear whether these four criteria considered by the Board are applicable when determining whether to grant a stay pursuant to § 251(f)(2). However, the Board notes that without a stay, the May 24, 2004, deadline imposed by the FCC will render these proceedings moot, because the Petitioners would be required to comply with the requirements they are seeking to suspend. This fact, by itself, is sufficient to justify granting a stay while the Board considers the petition. The public interest requires no less.

Therefore, the Board will grant the petitioners' request for a temporary stay of the IMNP requirements while this matter is pending. If, however, an intervenor in this proceeding can demonstrate circumstances that support lifting the temporary stay of

³ U.S. Telecom Ass'n v. FCC, "Order," No. 03-1414 (D.C. Cir. Dec. 4, 2003).

these requirements for an individual company, the Board will consider removing the stay on a company-by-company basis.

IT IS THEREFORE ORDERED:

1. The three petitions for suspension of intermodal number portability requirements filed on February 18, 2004, by Rural Iowa Independent Telephone Association and Iowa Telecommunications Association, and on March 9, 2004, by Alpine Communications, L.C., et al., and Coon Valley Cooperative Telephone Ass'n, Inc., et al., are combined, are considered to be complete as of April 9, 2004, and are docketed for investigation.

2. The following procedural schedule is established for this proceeding:

a. Petitioners shall file prepared direct testimony, with supporting exhibits and workpapers, on or before May 17, 2004.

b. Objectors shall file any prepared rebuttal testimony, with supporting exhibits and workpapers, on or before June 14, 2004.

c. Petitioners may file any prepared rebuttal testimony, with supporting exhibits and workpapers, on or before June 30, 2004.

d. A hearing for the purpose of receiving testimony and cross-examination of all testimony will commence at 10 a.m. on August 10, 2004, in the Board's hearing room at 350 Maple Street, Des Moines, Iowa. Parties shall appear at the hearing one-half hour prior to the time of hearing to mark exhibits. Persons with disabilities requiring assistive services or devices to

observe or participate should contact the Board at 515-281-5256 to request that appropriate arrangements be made.

e. Any party desiring to file a brief may do so on or before September 3, 2004.

3. In the absence of objection, all workpapers shall become a part of the evidentiary record at the time the related testimony and exhibits are entered in the record.

4. In the absence of objection, all data requests and responses referred to in oral testimony or cross-examination, which have not previously been filed with the Board, shall become a part of the evidentiary record. The party making reference to the data request or response shall file an original and six copies at the earliest possible time.

5. In the absence of objection, if the Board calls for further evidence on any issue and that evidence is filed after the close of hearing, the evidentiary record shall be reopened and the evidence will become a part of the evidentiary record five days after filing. All evidence filed pursuant to this paragraph shall be filed no later than seven days after the close of hearing.

6. Pursuant to 199 IAC 7.7(2) and (11), the time for filing responses or objections to data requests and motions will be shortened to five days from the date the motion is filed or the data request is served. All data requests and motions

should be served by facsimile transfer or by electronic mail, in addition to United States mail.

7. The Petitioners' request for a temporary suspension of enforcement of the FCC's intermodal local number portability requirements during the pendency of this proceeding is granted as described in this order.

8. The petitions to intervene filed by NPRC, Inc., d/b/a Nextel Partners, on March 29, 2004, the Wireless Coalition for Intermodal Portability on March 30, 2004, and Sprint Corporation on April 8, 2004, are granted.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 23rd day of April, 2004.

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application
of Elsie Communications, Inc.,
Clearwater, Kansas, seeking a
suspension or modification of
the Federal Communications
Commission Requirement to
Implement Wireline-Wireless
Number Portability Pursuant to)
47 U.S.C. Section 251(f)(2).

Application No. C-3154

INTERIM RELIEF GRANTED

Entered: April 14,

BY THE COMMISSION:

This cause came to be heard by the Nebraska Public Service Commission upon the filing of a Motion by Elsie Communications, Inc. (Elsie) of Clearwater, Kansas, on March 9, 2004, seeking an order granting interim relief pursuant to 47 U.S.C. § 251(f)(2) and requesting a hearing (hereinafter referred to as Motion for Interim Relief.) In support of its Motion, Elsie avers that it has filed an application with the Commission, pursuant to 47 U.S.C. § 251(f)(2) seeking suspension or modification of the requirement set forth *In the Matter of Telephone Number Portability*, CC Docket 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 03-284 (rel. November 10, 2003). The Intermodal Order obligates local exchange carriers located outside the top 100 metropolitan statistical areas (MSAs) to provide local number portability (LNP) and to be ready to port numbers to wireless carriers when certain conditions have been met. This obligation begins on May 24, 2004. Section 251(f)(2) gives this Commission the jurisdiction to suspend or modify requirements of the Federal Communications Commission (FCC) for rural carriers when such relief is sought. The language of this section reads in pertinent part:

(2) Suspensions and modifications for rural carriers .
. . . The State commission shall grant such a petition to
the extent that, and for such duration as, the State
commission determines that such suspension or
modification-

(A) is necessary-

- (i) to avoid a significant adverse economic impact on users of telecommunications services generally;
- ii) to avoid imposing a requirement that is unduly economically burdensome; or
- (iii) to avoid imposing a requirement that is technically infeasible; and

(B) is consistent with the public interest, convenience and necessity.

The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers. 47 U.S.C. § 251(f)(2) (Emphasis Added).

O P I N I O N A N D F I N D I N G S

Upon consideration of the Motion for Interim Relief, the Commission is of the opinion and finds said Motion for Interim Relief from the obligation to implement local number portability should be granted pending the review of this application until further notice by the Commission. The Commission will not set a date certain for the enforcement of the local number portability requirement at this time as requested. Rather, the Commission will make a determination on the duration of the interim relief after it has received evidence and held a hearing on the application. At that time, the Commission will further consider the time needed by this carrier to implement LNP.

Clearly, because of time constraints on the Commission's calendar, the 180-day timeframe in which the Commission must render its decision, and because of the number of applications filed with the Commission seeking a suspension under 47 U.S.C. § 251(f)(2), it would be difficult for the Commission to hold an evidentiary hearing and make its ruling on this and every application for suspension or modification of the LNP requirement filed prior to the May 24, 2004, deadline. The Commission finds it appropriate to grant this Motion for Interim Relief pending our review of this application.

The present decision to grant interim relief should in no way serve as an indication as to how we will rule on the merits of the underlying application.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Motion for Interim Relief be granted and the enforcement period be suspended until a date later to be determined by the Commission as provided herein.

Application No. C-3154

PAGE 3

MADE AND ENTERED at Lincoln, Nebraska, this 14th day of
April, 2004.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**PETITION FOR SUSPENSION OF
FEDERAL COMMUNICATIONS
COMMISSION REQUIREMENTS TO
IMPLEMENT LOCAL NUMBER
PORTABILITY,**

**NEW MEXICO EXCHANGE CARRIERS
GROUP,**

PETITIONER.

Case No. 004-00017-UT

ORDER GRANTING INTERIM RELIEF

THIS MATTER comes before the New Mexico Public Regulation Commission ("Commission") upon the Motion For Interim Relief ("Motion") that was filed on March 2, 2004 by the New Mexico Exchange Carriers Group ("NMECG"). Being fully apprised in the premises,

THE COMMISSION FINDS AND CONCLUDES:

1 In its Motion, NMECG requested that the Commission issue an order suspending the Federal Communications Commission's ("FCC") requirements for implementation of Local Number Portability ("LNP"), on an interim basis, until such time as the Commission makes a final determination on the merits of NMECG's Petition for Suspension of Local Number Portability Requirements and for Expedited Commission Consideration ("Petition").

2 In its Motion, NMECG stated that it was requesting interim relief only on behalf of certain named carriers.¹ This Order, therefore, applies only to those carriers named in NMECG's Motion.

3. The Commission Hearing Examiner assigned to this case has issued a Procedural Order establishing an expedited schedule for consideration of the Petition.

4. The Federal Communications Commission ("FCC") has established a requirement that implementation of LNP must be ordinarily be accomplished within six months after receipt of a bona fide request ("BFR").

5 Congress has charged the State commissions with deciding whether to grant requests for, *inter alia*, suspension of certain requirements established in, or pursuant to, the Telecommunications Act of 1996. See 47 U.S.C. § 251(f), "Exemptions, suspensions, and modifications."

6 This Commission must act upon NMECG's Petition within 180 days after its receipt thereof. In addition, Congress has granted to the State commissions the authority to grant interim relief during the pendency of cases addressing such requests for suspension.

The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. **Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.**

47 U.S.C. § 251(f)(2)

7 In support of its Motion, the NMECG submitted the Affidavit of

¹ See NMECG Motion, p --, n. 1
Case No 04-00017-UT
ORDER GRANTING INTERIM RELIEF
Page 2 of 5

Steven D Metts In that Affidavit, Mr Metts stated that substantial costs would be incurred by the participating NMECG members and their customers if this Commission declined to grant the interim relief requested during the pendency of the overall suspension case. The Affidavit further stated that those costs and related administrative changes would be economically burdensome and would cause adverse economic impact to consumers. As an example of such costs and charges, the Affidavit set forth an example relating to a participating NMECG member, Baca Valley, which had already received a BFR to implement LNP.

8. The Affidavit also stated that, in the event that this Commission declined to suspend the LNP requirement as it may apply to the participating NMECG members, it would not be technically feasible for those carriers which have received, or will soon receive, a BFR to complete delay commencement of the investments and other arrangements for LNP implementation until a determination of the merits of the Petition sometime after April 27, 2004, and still be in compliance with the FCC's time deadlines.

9. We note that the New Mexico Attorney General and the Commission's Utility Division Staff do not oppose the granting of interim relief on the basis of NMECG's Motion. However, we also note that Western Wireless License LLC ("Western Wireless") opposes the Motion, and that, on March 9, 2004, it filed a Response setting forth its arguments in opposition.

10. We observe that some of the arguments made by Western Wireless in its Response are addressed to merits of the case as a whole. We find that is premature for us to make any ruling on those issues, and we accordingly decline to

do so at this time. We also take notice of the other arguments contained in Western Wireless's Response. However, for the limited purposes of this proceeding, we are persuaded that the interim relief requested by NMECG is justified.

11 Pursuant to our authority, as described in 47 U.S.C. § 251(0)(2) as cited in ~1 6, *supra*, we find that immediate, *interim* suspension of the FCC's LNP implementation requirements for the participating NMECG members is appropriate, and is consistent with the public interest.

IT IS THEREFORE ORDERED:

A The interim relief requested by NMECG should be, and hereby is, GRANTED as set forth in this Order until such time as the Commission has made a final determination on the merits in this proceeding

B. The participating members of NMECG should be, and hereby are, excused from complying with the FCC's LNP implementation requirements until such time as the Commission has made a final determination on the merits in this Proceeding

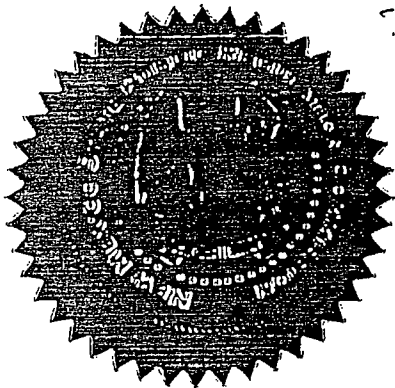
C. This Order is effective immediately.

D Copies of this Order shall be sent to all persons listed on the attached Certificate of Service

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 16th day of March 2004.

NEW MEXICO PUBLIC REGULATION COMMISSION

□



HERB H. HUGHES, CHAIRMAN

DAVID W. KING, VICE-CHAIRMAN

LYNDA M. LOVEJOY, COMMISSIONER

JEROME D. BLOCK, COMMISSIONER

E SHIRLEY BACA, COMMISSIONER

ORDER NO. 04-052

ENTERED JAN 27 2004

This is an electronic copy. Format and font may vary from the official version. Attachments may not appear.

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1125

In the Matter of)	
)	
HELIX TELEPHONE COMPANY)	ORDER
)	
Petition for Temporary Suspension of)	
Wireline to Wireless Number Portability)	
Obligations.)	

DISPOSITION: PETITION GRANTED

On December 22, 2003, Helix Telephone Company (Helix) filed a petition for temporary suspension of wireline to wireless number portability obligations. Helix is a small, rural telephone company, serving 342 customers in the Helix and Meacham exchanges.

Background. Local Number Portability (LNP) is the ability of a customer to retain a currently-used telephone number, even as the carrier providing service to that number is changed. Section 252(b) of the Telecommunications Act of 1996 (the Act) obliges both Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs) to enable customers to use LNP. Both the Act and the rules of the Federal Communications Commission (FCC) specify that state commissions administer many aspects of LNP implementation. The Commission has the authority to act on petitions for temporary suspension of LNP obligations within 180 days of the filing date.¹ In the instant case, that date is June 19, 2004.

The FCC has issued a number of orders setting forth the obligations of carriers to participate in the porting of customers' telephone numbers, including one which addresses the porting of numbers from wireline to wireless carriers ("Intermodal Porting").² The FCC directed wireline carriers outside the top 100 metropolitan areas, including both ILECs and CLECs, to implement number portability by May 24, 2004, if

¹ See U.S.C. 251 (f).

² Memorandum Opinion & Order & Further Notice of Proposed Rulemaking, *In the Matter of Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, FCC Docket No. 95-116 (FCC released November 10, 2003), ("Intermodal Porting Order").

they have received a request from a cellular carrier. Recently, Verizon Wireless and US Cellular requested Helix to provide intermodal number portability.

The Petition. Helix requests that the Commission grant temporary suspensions for the May 24, 2004 deadline for providing number portability to cellular providers. Helix requests that it be given until October 1, 2004 to provide number portability for the Helix exchange and until June 1, 2007 for the Meacham exchange.

Discussion. Section 251(f)(2) of the Act provides guidelines for state commissions to determine whether to grant waivers from, or suspension of, various requirements of the Act. The Commission recently granted a temporary waiver for seven petitions in the Portland metropolitan area. *See* Order No. 03-746, docket UM 1114.

Helix's two existing switches are technically incapable of providing number portability. The company plans to replace the Helix exchange switch in September 2004 and the Meacham exchange switch in May 2007. Helix estimates that each switch will cost approximately \$250,000.

Staff calculated the cost per customer of installing the switches earlier than the company planned in order to comply with the May 24, 2004 deadline. The cost in interest for the Helix exchange switch is \$42.56 per customer in the Helix exchange (234 customers). The cost for the Meacham exchange switch is \$781 per customer in the Meacham exchange (108 customers). Combined, the cost would be \$275 per customer.³ The cost of the switches themselves was not included in the calculations because Helix intends to replace the switches anyway.

Staff contacted Verizon Wireless, US Cellular and Sprint PCS to advise them that Helix filed a petition for temporary suspensions of its LNP obligations. No objections to the petition have been filed.

Staff recommends that the Commission find that the potential benefits of earlier portability do not justify the cost. The recommendation is detailed in a Staff Report, attached as Appendix A, and incorporated by reference.

At its Public Meeting January 20, 2004, the Commission adopted Staff's Recommendations and voted to grant Helix's petition for temporary suspension of its wireline to wireless number portability obligations.

³ Staff used 11 25% interest rate because that rate was used by the FCC to review requests for cost recovery for local number portability in prior years

ORDER

IT IS ORDERED that:

1. Helix Telephone Company's petition for temporary suspension of wireline to wireless number portability obligation until October 1, 2004 for the Helix exchange is granted.
2. Helix Telephone Company's petition for temporary suspension of wireline to wireless number portability obligation until June 1, 2007 for the Meacham exchange is granted.

Made, entered, and effective _____.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: January 20, 2004**

REGULAR X **CONSENT** **EFFECTIVE DATE** **N/A**

DATE: January 9, 2004

TO: Lee Sparling

FROM: Tom Harris through Dave Booth and Phil Nyegaard

SUBJECT: HELIX TELEPHONE COMPANY: (Docket No. UM 1125) Petition
for Temporary Suspension of Wireline to Wireless Number
Portability Obligations.

STAFF RECOMMENDATION:

Staff recommends the Commission grant Helix Telephone Company a temporary suspension of wireline to wireless number portability obligations until October 1, 2004, for the Helix exchange and until June 1, 2007, for the Meacham exchange.

DISCUSSION:

Introduction

On December 22, 2003, Helix Telephone Company (Helix) filed a petition for temporary suspension of wireline to wireless number portability obligations. Helix is a small, rural telephone company, serving 342 customers in the Helix and Meacham exchanges.

Number portability, i.e., local number portability (LNP), is an obligation placed on all local exchange carriers (LECs) by Section 251(b) of the Telecommunications Act of 1996 (the Act). The term LEC includes both ILECs and CLECs. The Oregon Commission has the authority and obligation to act on the petition under Section 251(f)(2) of the Act. That section also specifies that state commissions shall act on petitions within 180 days of the filing date. For the petition now before us, the deadline is June 19, 2004.

Background

Number portability allows customers to keep their telephone numbers when changing from one service provider to another. Number portability is under

APPENDIX A
PAGE 1 OF 4

federal jurisdiction, and the Federal Communications Commission (FCC) has adopted rules and issued several orders related to LNP. However, many aspects of the Act and of FCC rules are administered by state commissions.

Number portability was first implemented by wireline carriers in large metropolitan areas. LNP has been in effect in Portland since September 1998. Typically, customers use LNP to keep their ILEC phone number when they changed service to a CLEC. Number portability is also available in large metropolitan areas for customers who move from CLECs back to ILECs or between CLECs.

The FCC directed wireless carriers (essentially cellular carriers, aka CMRS providers) to develop procedures for porting cellular numbers among wireless carriers. After several extensions, the FCC set a deadline of November 24, 2003, for wireless carriers in the top 100 metropolitan statistical areas, including Portland, to comply. Outside the metropolitan areas the wireless carriers are required to comply by May 24, 2004. The FCC also directed wireline carriers, including both ILECs and CLECs, to implement number portability from wireline to wireless carriers by the same deadlines, if they have received a request from a cellular carrier. Number portability from wireline to wireless is often called inter-modal portability.

In the last few months, Verizon Wireless and U S Cellular requested Helix to provide inter-modal number portability. The due date is May 24, 2004, unless the Commission grants a temporary suspension or waiver. Staff contacted Verizon Wireless, U S Cellular, and Sprint PCS to advise them that we received the petition and that it would be brought before the Commission on January 20, 2004. The Director of External Affairs for U S Cellular has advised staff that it does not oppose Helix's petition and will not be filing comments.

The Petitions

The petitioner requests that the Commission grant temporary suspension of the May 24, 2004, deadline for providing number portability to cellular providers. Helix requests that it be given until October 1, 2004, to provide number portability for the Helix exchange and until June 1, 2007, for the Meacham exchange.

The Commission may recall that it recently considered two similar petitions from twenty-three wireline carriers in dockets UM 1113 and UM 1114. For the seven petitioners in the Portland metropolitan area, the Commission granted a temporary waiver until March 1, 2004. See Order No. 03-746, docketUM 1114. The remaining petitioners withdrew their petitions. However, some of them may

APPENDIX A
PAGE 2 OF 4

file new petitions for temporary suspension of number portability obligations, depending on individual circumstances. Helix was not one of those original petitioners.

Section 251(f)(2) of the Act provides guidelines for state commissions to make determinations whether to grant waivers from, or suspensions of, various requirements of the Act. Section 251(f)(2) provides:

The State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification—

(A) is necessary—

(i) to avoid a significant adverse economic impact on users of telecommunications services generally;

(ii) to avoid imposing a requirement that is unduly economically burdensome; or

(iii) to avoid imposing a requirement that is technically infeasible; and

(B) is consistent with the public interest, convenience, and necessity.

Helix's two existing switches are technically incapable of providing number portability. The company plans to replace the Helix exchange switch in September 2004 and the Meacham exchange switch in May 2007. Helix estimates that each switch will cost approximately \$250,000.

Staff knows that the Commission encourages competition between telecommunications providers, and that number portability has a positive effect on competition. I looked at the economic impact on Helix and its customers if the Commission denies the petition. I calculated the cost per customer for the interest on \$250,000 if Helix were obligated to purchase and install a switch 4.25 months sooner than planned in the Helix exchange and 36 months sooner in the Meacham exchange. I did not consider the impact of the switch cost itself, just the time value of money, because Helix intended to replace the switches anyway.

The cost of interest for the Helix exchange switch is \$42.56 per customer in that exchange (234 customers). The cost for the Meacham exchange switch is \$781 per customer in that exchange (108 customers). For both switches combined, the cost would be \$275 per customer.⁴

Staff does not assert that such costs would be paid explicitly by or entirely by Helix customers because Helix, as a small, rural company, is eligible for various

APPENDIX A
PAGE 3 OF 4

⁴ Staff used 11 25% interest rate because that rate was used by the FCC to review requests for cost recovery for local number portability in prior years

subsidies. However, such costs would be incurred and would fall on some telecommunications users somewhere.⁵

The question now before the Commission can be stated, "Is it in the public interest to incur costs of approximately \$42.56 per customer in the Helix exchange, in order to make number portability available May 24, 2004, rather than October 1, 2004, so that some, one or two, or perhaps zero, customers can port their numbers to a cellular carrier four months sooner than otherwise?" The same questions can be posed for the Meacham exchange and for Helix Telephone Company as a whole. Staff believes the answer is no. Section 251(f)(2) of the Act, gives the Commission reasonable grounds to grant Helix's petition. Staff recommends that the Commission find that the potential benefits of earlier portability do not justify the added cost and, therefore, the added cost is unduly economically burdensome and is not consistent with the public interest, convenience and necessity.

PROPOSED COMMISSION MOTION:

Helix Telephone Company be granted a temporary suspension of wireline to wireless number portability obligations until October 1, 2004, for the Helix exchange and until June 1, 2007, for the Meacham exchange.

um1125numberportability

APPENDIX A
PAGE 4 OF 4

⁵ The FCC has determined that cost recovery for number portability is "exclusively federal"

In the Matter of the Utah Rural Telecom)
Association's Request for Suspension of)
Wireline to Wireless Number Portability)
Obligations Pursuant to Section 252(f)(2))

DOCKET NO. 04-2424-01
ORDER GRANTING SUSPENSION OF
WIRELINE TO WIRELESS NUMBER
PORTABILITY REQUIREMENTS

ISSUED: March 17, 2004

By The Commission:

On February 24, 2004, the Utah Rural Telecom Association, on behalf of its member companies, All West Communications, Inc., Bear Lake Communications, Beehive Telephone Company, Carbon/Emery Telecom, Inc., Central Utah Telephone Company, Inc., Citizens Telecommunication Company of Utah, dba Frontier Communications of Utah, Emery Telecom, Gunnison Telephone Company, Hanksville Telecom, Inc., Manti Telephone Company, Navajo Communications Company, Inc., Skyline Telecom, Uintah Basin Telecommunication Association, Inc., UBET Telecom, Inc., and Union Telephone Company (Rural Companies), petitioned the Commission for an order granting a waiver for local number portability (LNP) requirements for wireline-to-wireless transfers. On March 10, 2004, the Division of Public Utilities (Division) submitted its memorandum in which it recommended granting the waiver. No other responses to the Rural Companies' February 24, 2004, Petition have been filed with the Commission.

47 U.S.C. §251(b)(2) imposes upon each telecommunications carrier a "duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the [Federal Telecommunications] Commission." Number portability permits a telecommunication subscriber to retain an assigned telephone number when changing providers of telecommunication

Docket No. 04-2424-01 - Order Granting Suspension of Wireline to Wireless Number Port... Page 2 of
services. The Federal Telecommunications Commission (FCC) has issued orders and promulgated rule
concerning number portability, numbering administration and cost recovery for number portability. See
e.g., 47 C.F.R. §§52.1-52.33. On November 10, 2003, the FCC issued a Memorandum Opinion and
Order and Further Notice of Proposed Rulemaking in CC Docket 95-116 (November 10, 2003, Order
FCC 03-284. In that order, the FCC required local exchange carriers (LECs) in the nation's top 100
Major Service Areas to provide LNP to all telecommunications carriers, including commercial mobile
radio service (CMRS) providers by November 24, 2003. In the November 10, 2003, Order, the FCC
recognized that small LECs operating in rural areas would face technical, operational and other
difficulties implementing LNP and granted LECs serving outside the 100 Major Service Areas a waiver
extending their requirement to be prepared to provide LNP to May 24, 2004. In further recognition of the
continuing difficulties faced by small, rural telecommunications companies, the FCC granted an
additional waiver for small LECs operating in the 100 Major Service Areas. January 16, 2004, FCC
Order, CC Docket No. 95-116, FCC 04-12.

In the Rural Companies' Petition filed with this Commission, these LECs assert that they
continue to face technical and operational difficulties to implement LNP in their territories. They note
that the FCC has still not resolved the issues, concerning LNP with CMRS providers, identified in the
FCC's own orders and the Further Notice of Proposed Rulemaking. The Rural Companies contend that
the efforts and economic expenses to themselves and their customers, to prepare to overcome their
technical difficulties and prepare to be able to provide LNP upon receiving a bonafide request, outweigh
the benefits which a customer or the public may receive from LNP of wireline-to-wireless carriers, a
form of intermodal portability. They state that none of their customers have requested that their wireline
telephone number be ported to a wireless carrier. They state that no CMRS provider has identified an
estimate of the number of customers which may request intermodal LNP; nor a specific request to port a

Docket No. 04-2424-01 - Order Granting Suspension of Wireline to Wireless Number Port... Page 3 of
customer's number. Under existing FCC regulation, the costs of preparing for intermodal portability will be borne by all customers of the Rural Companies, even though no customers have expressed a desire for the capability and, likely, few would avail themselves of the capability if made available.

Because of the costs, the continuing difficulty to implement LNP in their territories and the unresolved issues associated with intermodal portability that still need to be addressed by the FCC, the Rural Companies request this Commission grant them a waiver or suspension for intermodal portability of one year or until the FCC or this Commission has considered and resolved the remaining technical and regulatory LNP implementation issues, whichever ever occurs first. 47 U.S.C. 251(f) does grant state utility commissions the authority to grant such a waiver or suspension for a local exchange carrier with fewer than 2 percent of the nation's subscriber lines. Each of the Rural Companies has fewer than 2 percent of the nation's subscriber lines; indeed their combined subscriber line base is less than the 2 percent level. We may grant the requested suspension upon two points: 1. That it is necessary to i) avoid a significant adverse economic impact on users of telecommunications services generally, ii) to avoid imposing a requirement that is unduly economically burdensome, or iii) to avoid imposing a requirement that is technically infeasible. And, 2. That it is consistent with the public interest, convenience, and necessity. 47 U.S.C. §251(f).

Based upon our consideration of the February 24, 2004, Petition filed by the Rural Companies, we enter the following Order granting the requested suspension. We will require the Rural Companies to provide the Commission with supporting information and direct them and the Division to provide updated reports during the suspension period. Wherefore, it is ORDERED:

1. Each of the individual telecommunications companies identified in the February 24, 2004, Petition is granted a suspension of their intermodal local number portability obligations until May 24,

2. On or before September 1, 2004, each company shall file with the Commission information concerning the specific technical and operational steps that must be taken to comply with the LNP requirements, the specific expenses and costs anticipated to comply with the LNP requirements, the anticipated recovery amount an individual customer would bear for the recovery of these expenses and costs, and the projected number of customers who may request LNP during the remainder of the suspension period.

3. The Division and any interested person will be permitted to review the submitted information. The Division will review the information and submit a memorandum concerning its review of each company's filing within one month of the submission; comments from other interested persons may be similarly filed.

4. During the suspension period, each company will update, monthly, its filed information for any changes which may have occurred.

5. Any of the Rural Companies, the Division, any interested person or the Commission, on its own motion, may seek to modify the suspension should they believe that the suspension is no longer warranted.

DATED at Salt Lake City, Utah, this 17th day of March, 2004.

/s/ Ric Campbell, Chairman

/s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

GW#37430

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition)	DOCKET NO. UT-031822
Requesting Temporary Suspension)	
of Implementation of Number)	ORDER NO. 01
Portability -)	
)	
INLAND TELEPHONE)	ORDER GRANTING
COMPANY)	SUSPENSION
.....)	

BACKGROUND

- 1 On November 13, 2003, Inland Telephone Company, (Inland) requested a suspension of its obligation effective May 24, 2004, to provide local number portability. The petition was filed pursuant to Sec. 251(f)(2) of the Telecommunications Act of 1996, which allows state commissions to suspend or modify number portability requirements for small local exchange companies.

- 2 The Federal Telecommunications Commission (FCC) has required local number portability (LNP) for local exchange companies operating in areas where there is competition. The FCC has generally defined this competitive area to be the 100 largest metropolitan areas. Congress established a duty on all LECs, whether incumbent or competitive, to provide number portability to the extent technically feasible. 47 U.S.C. 251(b)(2).

- 3 Sec. 251(f)(2) provides for a suspension or modification if such action is necessary to avoid a significant adverse economic impact on users of telecommunications services generally, to avoid imposing a requirement that is unduly economically burdensome, or to avoid imposing a requirement that is technically infeasible. Even if these conditions exist, the state commission must determine that the suspension or modification is consistent with the public interest, convenience, and necessity.

- 4 *FCC Memorandum Opinion and Order* in CC Docket No. 95-116, issued on November 10, 2003, stated that wireline local exchange companies providing service within counties containing the 100 largest Metropolitan Statistical Areas should provide number portability to wireless carriers by November 24, 2003. The top 100 metropolitan areas in Washington include Snohomish, King, Pierce, and Clark counties. Outside of these areas, companies are required to offer local number portability on May 24, 2004.
- 5 Inland contends that their circumstances qualify for a temporary suspension of the number portability requirement. It argues that the central office switches serving its Dewatto, Roslyn, Prescott, and Uniontown wire centers are not technically capable of providing local number portability.
- 6 Inland asks that the Washington Utilities and Transportation Commission extend the deadline to provide LNP from May 24, 2004, until it is able to replace its central office switches. Inland has provided a tentative schedule of mid 2004 (Roslyn), late 2004 (Dewatto), mid 2005 (Prescott), and late 2005 (Uniontown). Inland has limited personnel qualified to install these central office switches, so they are planning sequential installation.
- 7 The Commission Staff believes that the Inland petition has provided an adequate reason to suspend its obligations to comply with the FCC's number portability requirements.
- 8 After examination of this request at its January 28, 2004, open meeting and giving consideration to all relevant matters, the Commission finds that the petition of Inland should be granted.

FINDINGS AND CONCLUSIONS

- 9 (1) Inland Telephone Company, is obligated to provide number portability upon receipt of a *bona fide* request unless this obligation is suspended or modified by the state commission. 47 U.S.C. 251(b)(2), 47 C.F.R. 52.23.
- 10 (2) The Commission has authority to act upon a petition for suspension or modification of the number portability requirement. 47 U.S.C. 251(f)(2).
- 11 (3) Inland has demonstrated that implementation of local number portability by May 24, 2004, within the Roslyn, Dewatto, Uniontown, and Prescott exchanges as required by the FCC is technically infeasible.

ORDER

THE COMMISSION ORDERS:

- 12 (1) The petition is granted, suspending local number portability compliance from May 24, 2004, until June 30, 2004 (Roslyn); December 31, 2004 (Dewatto); June 30, 2005 (Prescott); and December 31, 2005 (Uniontown).
- 13 (2) The Commission retains jurisdiction over this matter to take such future actions as may be appropriate.

DOCKET NO UT-031822
ORDER NO. 01

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DATED at Olympia, Washington, and effective this 28th day of January, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET NO. UT-032085
)	
ASOTIN TELEPHONE COMPANY,)	ORDER NO. 01
)	
Petitioner,)	
)	
Requesting Temporary Suspension)	
of Implementation of Number)	
Portability)	ORDER GRANTING SUSPENSION
.....)	

BACKGROUND

- 1 On December 18, 2003, Asotin Telephone Company (Asotin) requested a suspension of its obligation, effective May 24, 2004, to provide local number portability. The petition was filed pursuant to Sec. 251(f)(2) of the Telecommunications Act of 1996, which allows state commissions to suspend or modify number portability requirements for small local exchange companies.

- 2 The Federal Telecommunications Commission (FCC) has required local number portability (LNP) for local exchange companies operating in areas where there is competition. The FCC has generally defined this competitive area to be the 100 largest metropolitan areas. Congress established a duty on all LECs, whether incumbent or competitive, to provide number portability to the extent technically feasible. 47 U S C. 251(b)(2).

- 3 Sec. 251(f)(2) provides for a suspension or modification if such action is necessary to avoid a significant adverse economic impact on users of telecommunications services generally, to avoid imposing a requirement that is unduly economically burdensome, or to avoid imposing a requirement that is technically infeasible. Even if these conditions exist, the state commission must determine that the suspension or modification is consistent with the public interest, convenience, and necessity.

- 4 *FCC Memorandum Opinion and Order* in CC Docket No. 95-116, issued on November 10, 2003, stated that wireline local exchange companies providing service within counties containing the 100 largest Metropolitan Statistical Areas should provide number portability to wireless carriers by November 24, 2003. The top 100 metropolitan areas in Washington include Snohomish, King, Pierce, and Clark counties. Outside of these areas, companies are required to offer local number portability on May 24, 2004.
- 5 Asotin contends that their circumstances qualify for a temporary suspension of the number portability requirement. It argues that the central office switches serving its Asotin (host) and Anatone (remote) wire centers are not technically capable of providing local number portability. It estimates that the existing Asotin switch could be upgraded for \$100,000. TDS telecom, parent company of Asotin, is using this opportunity to make systemwide upgrades of its switches, taking advantage of economies of scale to negotiate a lower price than might be obtained for a single switch replacement. Asotin has agreed to provide interim local number portability with call-forwarding technology and any transport necessary to deliver the call to the cellular carrier.
- 6 Asotin asks that the Washington Utilities and Transportation Commission extend the deadline to provide LNP from May 24, 2004, until it is able to replace its central office switch. Asotin has provided a tentative schedule of June 1, 2006. Asotin has agreed to provide interim number portability using call forwarding technology, and providing the required transport in the interim.
- 7 The Commission Staff believes that Asotin petition and supporting data furnished to Staff have provided adequate reasons to suspend its obligations to comply with the FCC's number portability requirements.

- 8 After examination of this request at its March 24, 2004, open meeting and giving consideration to all relevant matters, the Commission finds that the petition of Asotin should be granted.

FINDINGS AND CONCLUSIONS

- 9 (1) Asotin is obligated to provide number portability upon receipt of a *bona fide* request unless this obligation is suspended or modified by the state commission. 47 U.S.C. 251(b)(2), 47 C.F.R. 52.23.
- 10 (2) The Commission has authority to act upon a petition for suspension or modification of the number portability requirement. 47 U.S.C. 251(f)(2).
- 11 (3) Asotin has demonstrated that implementation of local number portability by May 24, 2004, as required by the FCC is technically infeasible.

ORDER

THE COMMISSION ORDERS:

- 12 (1) The petition is granted, suspending local number portability compliance from May 24, 2004, until June 1, 2006, conditioned upon Asotin Telephone Company providing interim local number portability using call-forwarding technology.
- 13 (2) The Commission retains jurisdiction over this matter to take such future actions as may be appropriate.

DOCKET NO UT-032085
ORDER NO 01

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DATED at Olympia, Washington, and effective this 24th day of March, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner